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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,204	10/29/2003	Ying Zhou	ITL.1024US (P16711)	7312

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HOUSTON, TX 77057-2631

EXAMINER

ESTRADA, MICHELLE

ART UNIT	PAPER NUMBER
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2823

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/696,204

Applicant(s)

ZHOU ET AL.

Examiner

Michelle Estrada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8-11, 15-21, 27, 28, 30, 31, 36 and 38-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11, 15-21, 27, 28, 30, 31, 36 and 38-40 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4 and 8 is/are rejected.
- 7) ☒ Claim(s) 5, 9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yao (6,679,996) in view of Tijburg et al. (5,969,419).

With respect to claim 1, Yao discloses soaking a substrate (1) having a dielectric (2) deposited thereon in a aluminum salt solution (Col. 7, lines 12-25 and Col. 9, lines 29-32 and 58-61) available for surface reaction, said dielectric having a first dielectric constant; and depositing an oxide (3) on said dielectric, said oxide having a second dielectric constant different from the first dielectric constant.

Yao does not specifically disclose adjusting the pH of the aluminum salt solution.

Tijburg et al. disclose having a substrate with a dielectric formed thereon; immersing the substrate in a salt solution and adjusting pH (Col. 3, lines 55-60).

It would have been within the scope of one of ordinary skill in the art to combine the teachings of Yao and Tijburg et al. to enable the pH-adjusting step of Tijburg et al. to be performed in the process of Yao to obtain optimum complexing of the metal ion (Col. 3, lines 55-60).

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One of ordinary skill in the art would have been led to the recited concentration of the reactants in the solution through routine experimentation to achieve a desired layer associated characteristics. In addition, the selection of concentration of the reactants in the solution, its obvious because it is a matter of determining optimum process conditions by routine experimentation with a limited number of species of result effective variables. These claims are prima facie obvious without showing that the claimed ranges achieve unexpected results relative to the prior art range. In re Woodruff, 16 USPQ2d 1935, 1937 (Fed. Cir. 1990). See also In re Huang, 40 USPQ2d 1685, 1688 (Fed. Cir. 1996)(claimed ranges of a result effective variable, which do not overlap the prior art ranges, are unpatentable unless they produce a new and unexpected result which is different in kind and not merely in degree from the results of the prior art). See also In re Boesch, 205 USPQ 215 (CCPA) (discovery of optimum value of result effective variable in known process is ordinarily within skill or art) and In re Aller, 105 USPQ 233 (CCPA 1995) (selection of optimum ranges within prior art general conditions is obvious).

Note that the specification contains no disclosure of either the critical nature of the claimed concentration of the reactants in the solution or any unexpected results arising therefrom. Where patentability is said to be based upon particular chosen concentration of the reactants in the solution or upon another variable recited in a claim, the Applicant must show that the chosen concentration of the reactants in the solution are critical. In re Woodruff, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

With respect to claim 2, Yao discloses wherein depositing an oxide on said dielectric includes depositing aluminum oxide on said dielectric (Col. 9, lines 17-32), the Examiner clarifies that Yao discloses using a fluoride ion capturing agent added to the aqueous solution to deposit the layer of a corresponding metal oxide or a solid solution thereof, one of these ion capturing agent can be aluminum chloride, therefore aluminum oxide will be formed on the dielectric layer since aluminum oxide is the corresponding metal oxide of aluminum chloride (Col. 9, lines 17-33).

With respect to claim 4, Yao discloses wherein soaking said substrate in said aluminum salt solution includes soaking said substrate in a aqueous solution comprising the capturing agent, therefore the salt solution comprises aluminum chloride dissolved in water (Col. 7, lines 15-25).

With respect to claim 8, Tijburg et al. disclose having a silicon oxide formed in the substrate and then immersing the substrate in the salt solution.

Allowable Subject Matter

Claims 5, 9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 11, 15-21, 27, 28, 30, 31, 36, 38-40 are allowed.

Remarks

The subject matter of claims 3 and 6 was not under allowable subject matter. Claims 3 was rejected and claim 6 was objected as not further limiting the claim. See the office action mailed 5/3/06.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Estrada whose telephone number is 571-272-1858. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Smith can be reached on 571-272-1907. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2800.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michelle Estrada
Primary Examiner
Art Unit 2823

ME
October 23, 2006